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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

FIRST APPELLATE DISTRICT

DIVISION TWO

In re DARNELL T., a Person Coming Under the Juvenile Court Law.	
THE PEOPLE, Plaintiff and Respondent, v. DARNELL T., Defendant and Appellant.	A096305 (Alameda County Super. Ct. No. 182700)

Darnell T., a minor, appeals after the juvenile court found true allegations of second degree robbery and conspiracy to commit robbery, declared him a ward of the court, and placed him at a juvenile camp. His counsel has raised no issues and asks this court to review the record to determine whether there are any arguable issues. (*People v. Wende* (1979) 25 Cal.3d 436.)

STATEMENT OF THE CASE

On May 7, 2001, the Santa Clara County District Attorney filed an amended petition, pursuant to Welfare and Institutions Code section 602,[1] alleging the following felonies: second degree robbery (Pen. Code, §§ 211, 212.5, subd. (c)—count 1), and conspiracy to commit robbery (Pen. Code, § 182, subd. (a)(1)—count 2). Count 1 further

alleged that appellant personally used a deadly and dangerous weapon, a knife (Pen. Code, § 12022, subd. (b)(1)). On May 23, 2001, the district attorney made an oral amendment to the petition, alleging the following additional felonies: grand theft (Pen. Code, §§ 484, 487, subd. (c)—count 3), and false imprisonment (Pen. Code, §§ 236, 237—count 4).

Following a contested jurisdictional hearing held on June 11, 2001, the juvenile court found that counts 1 (robbery) and 2 (conspiracy) were true, but found that counts 3 (grand theft) and 4 (false imprisonment) were not true, along with the enhancement allegation to count 1.

At a dispositional hearing held on July 18, 2001, the juvenile court in Alameda County (to which the case had been transferred) declared appellant to be a ward of the court, removed him from his mother's custody, and placed him at Camp Wilmont Sweeney with various probation conditions.[2] The court determined appellant's maximum period of confinement to be five years, including an aggravated term of five years for the robbery, with the conspiracy offense stayed pursuant to section 654.

Appellant filed a timely notice of appeal on September 10, 2001.

STATEMENT OF FACTS

On the evening of April 18, 2001, Matthew S. was walking to a friend's house in Sunnyvale, carrying a duffel bag containing clothes and electronics. He also was carrying a plastic bag of comic books, and his wallet was in his right front pocket. Two men approached him from a nearby cross-street; the first man came up to Matthew and stopped him; two other men came toward him. The first man (later identified as Steven Currie) put his arm across Matthew's chest and asked what he had in his duffel bag. Matthew offered him some money.

The other two men then came up a few seconds later. The second man (later identified as Jaye S.) stood to Matthew's left, about three feet away. The third man

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[1] All further statutory references are to the Welfare and Institutions Code unless otherwise indicated.

(appellant) stood behind Matthew and to his left, about two and one-half or three feet away. The second man had an orange jacket over his head, as if to conceal himself, and was giggling. Matthew did not see what appellant was doing; he could see appellant out of the corner of his eye, and just knew appellant was standing there. Matthew thought about running away at the beginning, but with all three men around him, he felt trapped.

As Matthew took his wallet out of his pocket, the first man put a knife to his throat and took his bag from him; someone also took his wallet from his hand. The three men then "bolted" away from Matthew towards a nearby car.

Sunnyvale police officer Timothy Ahern arrested appellant and, on April 19, 2001, after reading him his *Miranda*[3] rights, appellant gave an "implied" waiver. Appellant told Ahern that he had been playing basketball with a group of friends at a park in Sunnyvale, when they decided to drive to San Francisco for the evening. The group of friends, including Jaye S., Philip R., David Lind, and Steven Currie left the park in Lind's car. Lind said he needed gas money; appellant offered him some money, but got no response. They drove by Matthew S. and someone in the car said they should jump him. Lind pulled his car over.

Appellant did not want to have anything to do with what was about to occur, and so he got out of the car and started walking. Currie and Jaye S. then walked past him and confronted Matthew. Appellant told Ahern that he then walked towards the three men, and stopped a couple of feet behind Matthew S. He saw Currie hold a knife up towards Matthew. Currie took his duffel bag and Jaye S. took his wallet. When Currie and Jaye S. started running back to Lind's car, appellant did the same because he did not know what else to do. Appellant admitted to Ahern that "he would add to the person's fear in how close he was to him. He knew what was going on, and he also did express remorse for not moving on or anything other than just standing there." Once back in the car, the men started handing money around the car, but appellant did not take any money.

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[2] Appellant successfully completed camp and has been released to his mother's custody.
[3] *Miranda v. Arizona* (1969) 384 U.S. 436.

Appellant testified that he did not say anything to Matthew or take anything from him. After the incident, appellant asked Lind to take him home (to Fremont), but Lind drove to San Francisco.

DISCUSSION

There is substantial evidence to support the juvenile court's findings that the allegations of the petition were true. The removal of appellant from the physical custody of his mother was warranted and the maximum term of confinement was correctly calculated, both pursuant to section 726.

There are no meritorious issues to be argued.

The juvenile court's orders declaring appellant a ward of the court, removing him from the physical custody of his mother, and placing him at Camp Wilmont Sweeney are affirmed.

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Kline, P.J.

We concur:

_____
Haerle, J.

_____
Ruvolo, J.